IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 23048 of 2004

Between:

B.Ramesh Kumar, S/o.Late B.Subba Rao,
R/o.D.No.40-21-8/5, Fakkirgudem, Lobbipet,
Vijayawada.

..... PETITIONER

AND

1 The Chairman & Managing Director, Bharath Sanchar Nigam Ltd.,(Corporate office) 415, Sanchar Bhavan, 20, Ashok Road, New Delhi.
2 The Chief General Manager (Telecom), A.P.Circle, Hyderabad.
3 The Assistant General Manager (Admn), for CGM, BSNL, A.P.Circle, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any appropriate writ, order or direction more particularly in the nature of writ of Mandamus and declaring the action of the respondents in not considering the case of the petitioner on compassionate grounds in Group-C post or any other suitable post in the Respondents department as illegal, arbitrary and violative of fundamental rights guaranteed under the constitution of India and consequently direct the respondents to consider the case of the petitioner on compassionate grounds and pass such other order or orders.

Counsel for the Petitioner: MR.V.SUBRAHMANYAM

Counsel for the Respondents: MR.C.YADAGIRI, Standing Counsel for BSNL

The Court at the admission stage made the following :

The Hon’ble Sri Justice

K.C. Bhanu

W.P. No. 23048 of 2004

O R D E R:

Aggrieved by the action of the respondents in not considering the case of the petitioner on compassionate grounds in Group-C post or any suitable post in the respondent-department, the present writ petition is filed.

The brief facts that are necessary for the disposal of the present writ petition may be stated as follows:

The father of the petitioner joined in the respondent-department as lineman and completed 26 years of service. While he was working in Industrial Estate Exchange, Vijayawada, he met with an accident and died on the spot on 6.7.2000. Due to the sudden and premature death of his father, the entire family lost their bread winner. According to the petitioner, except the earnings of his father, there is no other source of income to eke out their livelihood. After the death of the father of the petitioner, the mother of the petitioner gave a representation on 4.9.2000 to the respondents requesting to provide employment to the petitioner on compassionate grounds in any suitable post. There upon the respondents vide letter dated 14.9.2000 required the petitioner to submit certain particulars. On 14.11.2000 the petitioner submitted all the particulars along with certificates as required by the department. The Sub-Divisional Engineer after considering his case has recommended to the higher officials for appointment on compassionate grounds. Again the 2nd respondent issued letter dated 27.5.2003 asking him to submit his educational qualifications in view of the fact that the educational qualifications have been changed for Group-C post. Thereafter the petitioner submitted his educational qualification. Thereafter the

impugned proceedings have been issued stating that the High Power Committee came to the opinion that the family of the petitioner is not in distressed condition and therefore his case was not considered. There upon he made representation on 1.5.2004 to the 1st respondent explaining his family position and requested for relaxation of recruitment rules for appointment on compassionate grounds. The 2nd respondent in his letter dated 8.7.2004 informed the petitioner that his case for appointment on compassionate grounds to Group-C post was not considered in view of the financial resources of the petitioner's family. Hence the present writ petition.

The respondents filed their counter stating that the High Power Committee met on 19.12.2003 considered the candidature of the petitioner for appointment on compassionate grounds under Group-C post taking into account the financial resources, size of the family, assets and liabilities of the deceased, age of the dependants and rejected the same. It is further stated that the family of the petitioner is receiving Rs.2,961/- per month towards pension besides increasing rise of D.A. rates. The family possesses a house and the petitioner is the only son depending on the widow. As the family is not in distressed condition, the High Power Committee rejected the case of the petitioner. As the petitioner is a technically qualified person, he could not seek any compassionate appointment. Hence the respondents pray to dismiss the writ petition.

Learned counsel for the petitioner contended that the family of the deceased employee is in distressed condition and simply because he received some terminal benefits, that cannot be taken as a ground for rejecting the compassionate appointment and hence he prays to give a direction to the respondents to reconsider the case of the petitioner.

On the other hand, learned counsel for the respondents contended that the family of the petitioner is not in distressed condition. The benefits and the pension are sufficient for the maintenance of the family and there are no grounds to give direction

to reconsider the case of the petitioner.

There cannot be any dispute that compassionate appointment can be made taking into account the financial resources, size of the family, assets and liabilities of the deceased, ages of the dependents, properties held by the family etc. Though it is stated in the writ affidavit that the family of the petitioner is getting only Rs.2,150/- p.m. towards pension and was paid only Rs.15,697/- towards settlement of terminal benefits, in the counter affidavit it is specifically stated that the family of the deceased employee is getting Rs.2,961/- per month towards family pension. It is stated that the family possesses a house and only the petitioner and his mother are depending on the income of the deceased employee. Even the petitioner is a graduate in B.Sc. and also completed Diploma in Computer Course. According to the respondents, the terminal benefits such as Rs.1,56,933/- towards DCRC, Rs.1,68,449/- towards LIC/PLI policies, Rs.8,131/- towards GPF balance, Rs.42,924/- towards Group Insurance and Rs.57,380/- towards leave encashment were received by the family of the petitioner. Suppressing all these facts, the petitioner stated that the family received only Rs.15,697/- towards settlement of terminal benefits and was granted family pension of Rs.2,150/- per month. But, as a matter of fact the family of the deceased person received more than Rs.5.00 lakhs towards terminal benefits and Rs.2,961/- towards monthly pension which is subject to increase for every rise in D.A. rates. The fact that the family possesses house is also not in dispute. The petitioner and his mother are only the dependents of the deceased employee.

Therefore, from the above facts it is clear that the family is not in distressed condition. The High Power Committee after taking into account all the aspects rightly rejected the case of the petitioner. The order under challenge does not suffer from any incurable legal infirmities so as to call for interference by this court.

However, the learned counsel for the petitioner placed

strong reliance on a decision of the apex court in **Tamil Nadu Electricity Board v. Sumathi** wherein this court held:

> "The sudden jerk in the family by reason of the death of the bread earner can only be absorbed by some lump sum amount being made available to the family – This is rather unfortunate but this is a reality. The feeling of security drops to zero on the death of the bread earner and insecurity thereafter reigns and it is at that juncture if some lump sum amount is made available with a compassionate appointment, the grief stricken family may find some solace to the mental agony and manage its affairs in the normal course of events. It is not that monetary benefit would be the replacement of the bread earner, but that would undoubtedly bring some solace to the situation".

No doubt from the aforesaid decision it is clear that monetary benefit would not be a replacement for the bread earner but only a solace to the situation, but at the same time, in this case the family consisting of the petitioner and his widow mother is getting Rs.3,000/- per month towards pension. Therefore, from and facts and circumstances of the case, this court is of the opinion that the family is not in distressed condition so as to give appointment to the petitioner on compassionate grounds. Further more, the petitioner is a technically qualified graduate person. Therefore, the rejection of the petitioner's case is after considering all the aspects.

The writ petition is devoid of merit and it is accordingly dismissed.

K.C. Bhanu, J.

Date: 24--03—2005.

MVB.

..... REGISTRAR

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SECTION OFFICER

To

1 The Chairman & Managing Director, Bharath Sanchar Nigam Ltd.,(Corporate office) 415, Sanchar Bhavan, 20, Ashok Road, New Delhi.
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